

PROPOSED AMENDMENTS

TO THE FOREIGN
SERVICE ACT OF 1946,

AS AMENDED

December, 1958

Department of State

A BILL

To amend the Foreign Service Act of 1946, as amended, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States
of America in Congress assembled, That this Act may be cited as the "Foreign
Service Act Amendments of 1959".

SEC. 2. Section 415 of such Act is amended to read as follows:

"SEC. 415. (a) There shall be ten classes of Foreign Service staff officers and employees, referred to hereafter as staff officers and employees. The per annum salaries of staff officers and employees within each class shall be as follows:

Class 1. - \$11,660, \$11,990, \$12,320, \$12,650, \$12,980, \$13,310, \$13,640

Class 2 - \$ 9,900, \$10,175, \$10,450, \$10,725, \$11,000, \$11,275, \$11,550

Class 3 - \$ 8,140, \$ 8,415, \$ 8,690, \$ 8,965, \$ 9,240, \$ 9,515, \$ 9,790

Class 4 - \$ 7,000, \$ 7,225, \$ 7,450, \$ 7,675, \$ 7,900, \$ 8,125, \$ 8,350

Class 5 - \$ 6,150, \$ 6,350, \$ 6,550, \$ 6,750, \$ 6,950, \$ 7,150, \$ 7,350

Class 6 - \$ 5,300, \$ 5,500, \$ 5,700, \$ 5,900, \$ 6,100, \$ 6,300, \$ 6,500

Class 7 - \$ 4,650, \$ 4,800, \$ 4,950, \$ 5,100, \$ 5,250, \$ 5,400, \$ 5,550

Class 8 - \$ 4,200, \$ 4,350, \$ 4,500, \$ 4,650, \$ 4,800, \$ 4,950, \$ 5,100

Class 9 - \$ 3,750, \$ 3,900, \$ 4,050, \$ 4,200, \$ 4,350, \$ 4,500, \$ 4,650

Class 10 - \$ 3,500, \$ 3,600, \$ 3,700, \$ 3,800, \$ 3,900, \$ 4,000, \$ 4,100

“(b) Notwithstanding the provisions of paragraph (a) of this section, the Secretary may, under such regulations as he may prescribe, fix the salary or compensation at lesser rates of salary than those prescribed by this section for the applicable class of officers or employees who are employed locally abroad and who are not available or are not qualified for transfer to another post or posts.”

SEC. 3. Section 416 of such Act is amended to read as follows:

"SEC. 416. (a) A person appointed as a staff officer or employee shall receive basic salary at one of the rates of the class to which he is appointed which the Secretary shall, taking into account his qualifications and experience and the needs of the Service, determine to be appropriate for him to receive.

"(b) Whenever the Secretary determines that the needs of the Service warrant the appointment of staff officers or employees in a particular occupational group uniformly at a specific step rate above the minimum rate of the applicable class, he may adjust the basic salary of any staff officer or employee in the same class and occupational group who is receiving less than such established uniform step rate."

SEC. 4. Section 431 of such Act is amended by striking out in the first sentence of subparagraph (a) the phrase "the termination of time spent on authorized leave, whichever shall be later," and inserting in lieu thereof the phrase "upon termination of his service in accordance with the provisions of paragraph (b) of this section,"; and by amending subparagraph (b) of this section to read as follows:

"(b) The official services of a chief of mission shall not be deemed terminated by the appointment of a successor but shall continue until he has relinquished charge of the mission and for such additional period as may be determined by the Secretary, but in no case shall such additional period exceed fifty days, including time spent in transit. During such period the Secretary may require him to render such services as he may deem necessary in the interests of the Government."

SEC. 5. Section 441 of such Act and the heading thereto is amended to read as follows:

-3-

"CLASSIFICATION OF POSITIONS IN THE FOREIGN SERVICE AND IN THE DEPARTMENT

"SEC. 441. (a) Under such regulations as he may prescribe, and in order to facilitate effective management, the Secretary shall classify all positions in the Service at posts abroad, excluding positions to be occupied by chiefs of mission, and in the case of those occupied by Foreign Service officers, Reserve officers, and staff officers and employees, he shall establish such positions in relation to the classes established by sections 412, 414, and 415, respectively. Positions occupied by local employees and consular agents, respectively, shall be allocated to such classes as the Secretary may establish by regulation.

"(b) Under such regulations as he may prescribe, the Secretary may, notwithstanding the provisions of the Classification Act of 1949, as amended (5 U.S.C. 1071, et. seq.), classify positions in or under the Department which he designates as Foreign Service positions to be occupied by officers and employees of the Service, and establish such positions in relation to the classes established by sections 412, 414, and 415."

SEC. 6. (a) Section 444. (a) of such Act is amended by striking out "444. (a)" and inserting "444" in lieu thereof which shall read as follows:

"SEC. 444. The Secretary shall, in accordance with such regulations as he may prescribe, establish schedules of salaries for classes of positions of local (alien) employees of the Service; provided that such schedules of salaries for local employees shall be based upon prevailing wage rates and related compensation practices for corresponding types of positions in the locality, as is consistent with the public interest."

(b) Section 444. (b) of such Act is hereby repealed.

SEC. 7. A new section 447 is hereby added to such Act, as follows:

"ADMINISTRATIVE ESTABLISHMENT OF HAZARDOUS DUTY PAY
FOR CERTAIN CATEGORIES OF OFFICERS AND EMPLOYEES

"SEC. 447. The Secretary may, under such regulations as he may prescribe, establish rates of salary differential, not exceeding 15 per centum of basic salary, for officers or employees of the Service while they are assigned for duty as couriers."

SEC. 8. Section 517 of such Act is amended by striking the second and third sentences thereof.

SEC. 9. (a) Section 520 and the heading thereto is amended by striking out in the heading the phrase "REINSTATEMENT AND RECALL" and substituting in lieu thereof the phrase "REAPPOINTMENT, RECALL, OR REEMPLOYMENT"; and by amending paragraph (b) to read as follows:

"(b) The Secretary may recall any retired Foreign Service officer temporarily to active duty in the Service whenever he shall determine such recall is in the public interest."

(b) Section 520 of such Act is further amended by adding at the end thereof a new paragraph (c) which shall read as follows:

"(c) Notwithstanding the provisions of 5 U.S.C. 62 and 5 U.S.C. 715a, a Foreign Service officer heretofore or hereafter retired under the provisions of section 631 or 632 or a Foreign Service staff officer or employee hereafter retired under the provisions of section 803 shall not, by reason of his retired status, be barred from employment in Federal Government service in any appointive position for which he is qualified. An annuitant so reemployed shall serve at the will of the appointing officer."

-5-

SEC. 10. Section 522 of such Act is amended by adding at the end thereof a new subparagraph (3) which shall read as follows:

"(3) extend the appointment or assignment of any Reserve officer, or continue the services of any such Reserve officer by reappointment without regard to the provisions of section 527 of this Act, for not more than five additional years if the Secretary deems it to be in the public interest to continue such officer in the Service, except that the assignment of any Reserve officer under paragraph (2) above may not be extended under the provisions of this paragraph without the consent of the head of the agency concerned."

SEC. 11. Section 531 of such Act is amended to read as follows:

"SEC. 531. The Secretary may, under such regulations as he may prescribe, appoint staff officers and employees on the basis of qualifications and experience. The Secretary may make provisions for temporary, limited, and such other type appointments as he may deem necessary. He is authorized to establish appropriate probationary periods during which newly appointed staff officers or employees, other than those appointed for temporary or limited service shall be required to serve. The Secretary may terminate at any time, without regard to the provisions of section 637, or the provisions of any other law, staff officers or employees appointed for temporary or limited service and other staff officers or employees who occupy probationary status."

SEC. 12. Section 532 of such Act is amended to read as follows:

"SEC. 532. Under such regulations as he may prescribe, the Secretary may assign a staff officer or employee to any post or he may assign him to serve in any position in which he is eligible to serve under the terms of this or any other Act. A staff officer or employee may be transferred from one post to another by order of the Secretary as the interests of the Service may require."

SEC. 13. (a) Paragraphs (a), (b), and (c) of section 571 of such Act are amended to read as follows:

"SEC. 571. (a) Any officer or employee of the Service may, in the discretion of the Secretary, be assigned or detailed for duty in any Government agency, or in any international organization, international commission, or any international body, such an assignment or combination of assignments to be for a period of not more than four years, except that under special circumstances the Secretary may extend this four-year period for not more than four additional years.

"(b) If a Foreign Service officer shall be appointed by the President, by and with the advice and consent of the Senate, or by the President alone to a position in any Government agency, any United States delegation or mission to any international organization, international commission, or any international body, the period of his service in such capacity shall be construed as constituting an assignment within the meaning of paragraph (a) of this section and such person shall not, by virtue of the acceptance of such an assignment, lose his status as a Foreign Service officer. Service in such a position shall not, however, be subject to the limitations concerning the duration of an assignment contained in that paragraph.

"(c) If the basic minimum salary of the position to which an officer or employee of the Service is assigned pursuant to the terms of this section is higher than the salary such officer or employee is entitled to receive as an officer or employee of the Service, such officer or employee shall, during the period such difference in salary exists, receive the salary and allowances of the position in which he is serving in lieu of his salary and allowances as an officer or employee of the Service. Any salary paid under the provisions of this section shall be

paid from appropriations made available for the payment of salaries of officers and employees of the Service and shall be the salary on the basis of which computations and payments shall be made in accordance with the provisions of title VIII. No officer or employee of the Service who, subsequent to the effective date of this Act is assigned to, or who after June 30, 1960, occupies a position in the Department that is designated as a Foreign Service position shall be entitled to receive a salary differential under the provisions of this paragraph."

(b) Paragraph (e) of section 571 of such Act is amended by striking the phrase "with heads of Government agencies" where it appears in the second sentence and by redesignating the paragraph as "(d)".

SEC. 14. Section 625 of such Act is amended to read as follows:

"SEC. 625. Any Foreign Service officer or any Reserve officer, whose services meet the standards required for the efficient conduct of the work of the Service and who shall have been in a given class for a continuous period of nine months or more, shall, on the first day of each fiscal year, receive an increase in salary to the next higher rate for the class in which he is serving. Without regard to any other law the Secretary is authorized to grant to any such officer additional increases in salary within the salary range established for the class in which he is serving, based upon especially meritorious service."

SEC. 15. The heading "PART D - SEPARATION OF FOREIGN SERVICE OFFICERS FROM THE SERVICE" under title VI of such Act is amended to read as follows: "PART D - SEPARATION OF OFFICERS AND EMPLOYEES FROM THE SERVICE".

SEC. 16. Section 631 of such Act is amended to read as follows:

"SEC. 631. Any Foreign Service officer who is a career ambassador or a career minister, other than one occupying a position as chief of mission or any other position to which he has been appointed by the President, by and with the

advice and consent of the Senate, shall, upon reaching the age of sixty-five, be retired from the Service and receive retirement benefits in accordance with the provisions of section 821, but whenever the Secretary shall determine it to be in the public interest, he may extend such an officer's service for a period not to exceed five years."

SEC. 17. Section 632 of such Act is amended to read as follows:

"SEC. 632. Any Foreign Service officer, other than one occupying a position as chief of mission or any other position to which he has been appointed by the President, by and with the advice and consent of the Senate, who is not a career ambassador or a career minister shall, upon reaching the age of sixty, be retired from the Service and receive retirement benefits in accordance with the provisions of section 821 but whenever the Secretary shall determine it to be in the public interest, he may extend such an officer's service for a period not to exceed five years."

SEC. 18. (a) Paragraphs (a), (b), (c), and (d) of section 637 of such Act and the heading thereto are amended to read as follows:

"SEPARATION FOR CAUSE

"SEC. 637. (a) The Secretary may, under such regulations as he may prescribe, separate from the Service any Foreign Service officer, Reserve officer, or staff officer or employee, on account of the unsatisfactory performance of his duties, or for such other cause as will promote the efficiency of the Service, and for reasons given in writing, but no such officer or employee shall be so separated until he shall have been granted a hearing by the Board of the Foreign Service and the unsatisfactory performance of his duties, or other cause for separation, shall have been established at such hearing, or else he shall have waived in writing his right to a hearing. The provisions of this section shall not apply to

Foreign Service officers of class 8 or any other officer or employee of the Service who is in a probationary status or whose appointment is limited or temporary.

"(b) Any participant in the Foreign Service Retirement and Disability system who is:

"(1) over forty-five years of age, separated from the Service for unsatisfactory performance of duty shall be retired upon an annuity computed in accordance with the provisions of section 821 but not in excess of 25 per centum of his per annum salary at the time of his separation;

"(2) under forty-five years of age, separated from the Service for unsatisfactory performance of duty shall at the time of separation receive a payment equal to one year's salary or the refund, as provided in section 841 (a), of the contributions made by him to the Foreign Service Retirement and Disability Fund, whichever shall be greater.

"(c) Any participant in the Foreign Service Retirement and Disability system separated under the provisions of paragraph (a) of this section, for reasons other than unsatisfactory performance of duty, may, in the discretion of the Secretary and on the basis of criteria established in advance by him, be granted the benefits of paragraph (b) of this section depending upon his age. Unless the Secretary determines at the time of separation of a participant under the provisions of paragraph (a) of this section that he shall be granted the benefits of paragraph (b) of this section his contributions to the Foreign Service Retirement and Disability Fund shall be returned to him in accordance with the provisions of section 841 (a).

"(d) Any officer or employee of the Service who is not a participant in the Foreign Service Retirement and Disability system shall be entitled only to such

benefits as shall accrue to him under the retirement system in which he is a participant."

(b) Section 637 of such Act is further amended by adding at the end thereof a new paragraph (e) which shall read as follows:

"(c) Any payments made in accordance with the provisions of paragraphs (b) or (c) of this section shall be made out of the Foreign Service Retirement and Disability Fund."

SEC. 19. Section 638 of such Act and the heading thereto are amended to read as follows:

"TERMINATION OF APPOINTMENT OF FOREIGN SERVICE RESERVE OFFICERS
AND STAFF OFFICERS AND EMPLOYEES UNDER LIMITED APPOINTMENT

"SEC. 638. Notwithstanding the provisions of this or any other law, the Secretary may, under such regulations as he may prescribe, terminate the services of any Reserve officer or staff officer or employee serving under limited appointment at any time."

SEC. 20. Section 641 of such Act is amended to read as follows:

"Sec. 641. All promotions of staff officers and employees to a higher class shall be made at the same or at a higher salary on the basis of performance and merit in accordance with such regulations as the Secretary may prescribe."

SEC. 21. Section 642 of such Act is amended to read as follows:

"SEC. 642. (a) Under such regulations as the Secretary may prescribe, any staff officer or employee whose services meet the standards required for the efficient conduct of the work of the Service shall receive an increase in salary at periodic intervals to the next higher salary rate for the class in which he is serving. Without regard to any other law the Secretary is authorized to grant any such officer or employee additional increases in salary within the salary

-11-

range established for the class in which he is serving, based upon especially meritorious service.

"(b) Under such regulations as the Secretary may prescribe, any staff officer or employee who has achieved the maximum salary rate prescribed by section 415 for the class in which he is serving may be granted an additional in-class salary increment from time to time in recognition of longevity and proficiency in the Service. Each such salary increment shall be equal to the maximum step rate increment of the applicable class and no person shall receive more than four such salary increments while serving in the same class."

SEC. 22. Section 701 of such Act is amended by adding at the end thereof a new sentence which shall read as follows:

"The Secretary may also provide appropriate orientation and language training to dependents of officers and employees of the Government if such officers and employees are assigned to foreign relations activities."

SEC. 23. Section 704 of such Act is amended by adding at the end thereof a new paragraph (e) which shall read as follows:

"(e) The Secretary may, under such regulations as he may prescribe, in the absence of suitably qualified United States citizens, employ persons who are not citizens of the United States by appointment to the staff of the Institute either on a full- or part-time basis or by contract for services in the United States or abroad at rates not in excess of those provided by the Classification Act of 1949, as amended (5 U.S.C. 1071)."

SEC. 24. (a) Section 803 (b) (2) of such Act is amended to read as follows:

"(2) have paid into the Fund a special contribution for each year of such service in accordance with the provisions of paragraph (b) of section 852."

(b) Section 803 is further amended by adding at the end thereof a new paragraph (c) which shall read as follows:

"(c) (1) In accordance with such regulations as the President may prescribe, any Foreign Service staff officer or employee appointed by the Secretary of State who has completed at least 10 years of continuous service in the Department's Foreign Service, exclusive of military service, shall become a participant in the Foreign Service Retirement and Disability system and shall make a special contribution to the Foreign Service Retirement and Disability Fund in accordance with the provisions of section 852.

"(2) Any such officer or employee who, under the provisions of paragraph (c) (1) of this section, becomes a participant in the Foreign Service Retirement and Disability system, shall be mandatorily retired for age during the first year after the effective date of this section if he attains age sixty-four or if he is over age sixty-four; during the second year at age sixty-three; during the third year at age sixty-two; during the fourth year at age sixty-one, and thereafter at age sixty."

SEC. 25. Section 804 of such Act is amended to read as follows:

"SEC. 804. (a) Annuitants shall be persons who are receiving annuities from the Fund on the effective date of this Act and all persons, including widows, widowers, dependent widowers, children, and beneficiaries of participants or annuitants who shall become entitled to receive annuities in accordance with the provisions of this Act, as amended, or in accordance with the provisions of section 5 of the Act of May 1, 1956 (70 - Stat. 125).

"(b) When used in this title the term -

"(1) 'Widow' means the surviving wife of a participant who was married to such participant for at least two years immediately preceding his death or is the mother of issue by such marriage.

"(2) 'Widower' means the surviving husband of a participant who was married to such participant for at least two years immediately preceding her death or is the father of issue by such marriage.

"(3) 'Dependent Widower' means the surviving husband of a participant who was married to such participant for at least two years immediately preceding her death or is the father of issue by such marriage, and who is incapable of self-support by reason of mental or physical disability, and who received more than one-half of his support from such participant.

"(4) 'Child' means an unmarried child, including (a) an adopted child, and (b) a step-child or recognized natural child who received more than one-half of his support from the participant, under the age of eighteen years, or such unmarried child regardless of age who because of physical or mental disability incurred before age eighteen is incapable of self-support."

SEC. 26. Section 811 of such Act is amended by striking out the word "Five" and by inserting the words "Six and one-half".

SEC. 27. (a) Paragraphs (a), (b), and (c) of section 821 of such Act are amended to read as follows:

"SEC. 821. (a) The annuity of a participant shall be equal to 2 per centum

of his average basic salary for the highest five consecutive years of service, for which full contributions have been made to the Fund, multiplied by the number of years, not exceeding thirty-five, of service credit obtained in accordance with the provisions of sections 851, 852, and 853. However, the highest five years of service for which full contributions have been made to the Fund shall be used in computing the annuity of any Foreign Service officer who serves as chief of mission and whose continuity of service as such is interrupted prior to retirement by appointment or assignment to any other position determined by the Secretary to be of comparable importance. In determining the aggregate period of service upon which the annuity is to be based, the fractional part of a month, if any, shall not be counted.

"(b) At the time of retirement, any participant may, except as otherwise provided by section 834 (a), elect to receive a reduced annuity and to provide for an annuity payable to his widow or her widower, commencing on the date following such participant's death and terminating upon the death of such surviving widow or widower. The annuity payable to the surviving widow or widower after such participant's death shall be 50 per centum of the amount of the participant's annuity, up to the full amount of his annuity, specified by him as the base for the survivor benefits computed as prescribed in paragraph (a) of this section. The annuity of the participant making such election shall be reduced by 2 1/2 per centum of any amount up to \$2,400 he specifies as the base for the survivor benefit plus ten per centum of any amount over \$2,400 up to the full amount of the participant's annuity so specified.

"(c) (1) If an annuitant who made the election provided for in paragraph (b) of this section dies and is survived by a widow or widower and by a child or children, there shall be paid to or on behalf of each child, in addition to the

annuity payable to the surviving widow or widower under such election, an annuity equal to the smallest of: (i) 40 per centum of the annuitant's average salary divided by the number of children; (ii) \$600; or (iii) \$1,800 divided between the number of children.

"(2) If an annuitant who did not make the election provided for in paragraph (b) dies and is survived by a widow or widower and by a child or children, or if such annuitant is not survived by a widow or widower but by a child or children, each surviving child shall be paid an annuity equal to the smallest of: (i) 50 per centum of the annuitant's average salary divided by the number of children; (ii) \$720; or (iii) \$2,160 divided between the number of children."

(b) Section 821 of such Act is further amended by adding new paragraphs (d), (e), and (f) which shall read as follows:

"(d) If a surviving widow or widower who is receiving an annuity in accordance with the provisions of paragraph (b) of this section dies or the annuity of a child is terminated, the annuity of any other child or children shall be recomputed and paid as though such wife, husband, or child has not survived the participant.

"(e) The annuity payable to a child under paragraphs (c) or (d) of this section shall begin on the first day of the next month after the participant dies and such annuity or any right thereto shall be terminated upon death, marriage, or attainment of the age of eighteen years, except that, if a child is incapable of self-support by reasons of mental or physical disability, the annuity shall be terminated only when such child dies, marries, or recovers from such disability.

"(f) A participant who is not entitled to designate a beneficiary in accordance with the provisions of paragraph (b) of this section may at the time of

retirement elect to receive a reduced annuity for himself and to provide for an annuity payable after his or her death to a beneficiary whose name shall be notified in writing to the Secretary. The participant may elect that such beneficiary shall receive annuity payments either equal to 50 per centum of the participant's full annuity or to such lesser base sum as the participant shall designate. The annuity payable to a participant making such election shall be reduced by 10 per centum of an annuity computed as provided in subsection (a) of this section and by 5 per centum of an annuity so computed for each full five years the person designated is younger than the retiring participant, but such total reduction shall not exceed 40 per centum. Upon the death of the surviving beneficiary all payments shall cease and no further annuity payments shall be due or payable. No such election of a reduced annuity payable to a beneficiary shall be valid until the participant shall have satisfactorily passed a physical examination as prescribed by the Secretary."

SEC. 28. (a) Paragraphs (a), (b), and (c) of section 831 of such Act are amended to read as follows:

"SEC. 831. (a) Any participant who has five years of service credit toward retirement under the system, excluding military or naval service that is credited in accordance with the provisions of sections 851 or 852 (a) (2), and who becomes totally disabled or incapacitated for useful and efficient service by reason of disease, illness, or injury not due to vicious habits, intemperance, or willful misconduct on his part, shall, upon his own application or upon order of the Secretary, be retired on an annuity computed as prescribed in section 821. If the disabled or incapacitated participant has less than twenty years of service credit toward his retirement under the system at the time he is retired, his annuity shall be computed on the assumption that he had had twenty years of service, but the additional service credit that may accrue to a participant under this provision shall

-17-

in no case exceed the difference between his age at the time of retirement and the mandatory retirement age applicable to his class in the Service.

"(b) In each case such disability shall be determined by the Secretary upon the basis of the advice of one or more duly qualified physicians or surgeons, designated by the Secretary to conduct examinations. Unless the disability is permanent, like examinations shall be made annually until the annuitant has reached the statutory mandatory retirement age for his class in the Service. If the Secretary determines, on the basis of the advice of one or more duly qualified physicians or surgeons conducting such examinations that an annuitant has recovered to the extent that he can return to active duty, the annuitant shall be given the opportunity to be reinstated or reappointed in the Service. The Secretary may reinstate any such recovered disability annuitant in the class in which he was serving at time of retirement. The Secretary may, taking into consideration the age, qualifications, and experience of such officer and the rank of his contemporaries in the Service, recommend that the President, by and with the advice and consent of the Senate, appoint him to a class higher than the one in which he was serving prior to retirement. Payment of the annuity shall continue until a date six months after the date of the examination showing recovery or until the date of reinstatement to active duty in the Service, whichever is earlier. Fees for examinations under this provision, together with reasonable traveling and other expenses incurred in order to submit to examination, shall be paid out of the Fund. If the annuitant fails to submit to examination as required under this section, payment of the annuity shall be suspended until continuance of the disability is satisfactorily established.

"(c) If a recovered disability annuitant whose annuity is discontinued is for any reason not reinstated to active duty, or reappointed to a higher class

in the Service, he shall be considered to have been separated within the meaning of section 834 as of the date he was retired for disability and he shall, after the discontinuance of the disability annuity, be entitled to the benefits of that section or of section 841 (a) except that he may elect voluntary retirement in accordance with the provisions of section 636 if he can qualify under its provisions."

(b) Section 831 of such Act is further amended by adding new paragraphs (d), (e), and (f) which shall read as follows:

"(d) No participant shall be entitled to receive an annuity under this Act and compensation for injury or disability to himself under the Federal Employees' Compensation Act of September 7, 1916, as amended, covering the same period of time. This provision shall not bar the right of any claimant to the greater benefit conferred by either Act for any part of the same period of time. Neither this provision nor any provision of the Act of September 7, 1916, as amended, shall be so construed as to deny the right of any person to receive an annuity under this Act by reason of his own services and to receive concurrently any payment under such Act of September 7, 1916, as amended, by reason of the death of some other persons.

"(e) Notwithstanding any provision of law to the contrary, the right of any participant entitled to an annuity under this Act shall not be affected because such participant has received an award of compensation in a lump sum under section 14 of the Act of September 7, 1916, as amended, except that where such annuity is payable on account of the same disability for which compensation under such section has been paid, so much of such compensation as has been paid for any period extended beyond the date such annuity becomes effective, as determined by the

Secretary of Labor, shall be refunded to the Department of Labor, to be paid into the Federal Employees' Compensation Fund. Before such person shall receive such annuity he shall (1) refund to the Department of Labor the amount representing such computed payments for such extended period, or (2) authorize the deduction of such amount from the annuity payable to him under this Act, which amount shall be transmitted to such Department for reimbursement to such Fund. Deductions from such annuity may be made from accrued and accruing payments, or may be pro-rated against and paid from accruing payments in such manner as the Secretary of Labor shall determine, whenever he finds that the financial circumstances of the annuitant are such as to warrant such deferred refunding."

SEC. 29. Section 832 of such Act is amended to read as follows:

"SEC. 832. (a) In case a participant shall die and no valid claim for annuity is payable under the provisions of this Act, his contributions to the Fund, with interest, shall be paid in accordance with the provisions of sections 841 (a) and 881.

"(b) If a participant who has at least five years of service credit toward retirement under the system, excluding military or naval service that is credited in accordance with the provisions of sections 851 or 852 (a) (2), dies before separation or retirement from the Service and is survived by a widow or a dependent widower, who qualified for an annuity under the provisions of paragraph (b) of section 821, such widow or dependent widower shall be entitled to an annuity equal to 50 per centum of the annuity computed in accordance with the provisions of paragraph (e) of this section and paragraph (a) of section 821. The annuity of such widow or dependent widower shall commence on the date following death of the participant and shall terminate upon death of the widow or dependent widower, or upon the dependent widower's becoming capable of self-support.

"(c) If a participant who has at least five years of service credit toward retirement under the system, excluding military or naval service that is credited in accordance with the provisions of sections 851 or 852 (a) (2), dies before separation or retirement from the Service and is survived by a widow or a dependent widower, who qualifies for an annuity under the provisions of paragraph (b) of section 821, and a child or children, each surviving child shall be entitled to an annuity computed in accordance with the provisions of paragraph (c) (1) of section 821. The child's annuity shall begin and be terminated in accordance with the provisions of paragraph (e) of section 821. Upon the death of the surviving widow or dependent widower or termination of the annuity of a child, the annuity of any other child or children shall be recomputed and paid as though such widow or dependent widower or child had not survived the participant.

"(d) If a participant who has at least five years of service credit toward retirement under the system, excluding military or naval service that is credited in accordance with the provisions of sections 851 or 852 (a) (2), dies before separation or retirement from the Service and is not survived by a widow or widower, but by a child or children, each surviving child shall be entitled to an annuity computed in accordance with the provisions of paragraph (c) (2) of section 821.

"(e) If, at the time of his or her death, the deceased participant had less than 20 years of service credit toward retirement under the system, the annuities payable in accordance with paragraph (b) of this section shall be computed in accordance with the provisions of section 821 on the assumption he or she had had 20 years of service, but the additional service credit that may accrue to a deceased participant under this provision shall in no case exceed the difference

between his or her age on the date of death and the mandatory retirement age applicable to his or her class in the Service. In all cases arising under paragraphs (b), (c), (d), or (e) of this section, it shall be assumed that the deceased participant was qualified for retirement on the date of his death."

SEC. 30. A new section 834 is hereby added to such Act as follows:

"DISCONTINUED SERVICE RETIREMENT

"SEC. 834. (a) Any participant who voluntarily separates from the Service after obtaining at least five years of service credit toward retirement under the system, excluding military or naval service that is credited in accordance with the provisions of sections 851 or 852 (a) (2), may, upon separation from the Service or at any time prior to becoming eligible for an annuity, elect to have his contributions to the Fund returned to him in accordance with the provisions of section 841, or to leave his contributions in the Fund and receive an annuity, computed as prescribed in section 821 commencing at the age of sixty years. The provisions of paragraph (f) of section 821 shall not be applicable to such participants.

"(b) If a participant who has qualified in accordance with the provisions of paragraph (a) of this section, to receive a deferred annuity commencing at the age of sixty dies before reaching the age of sixty his contributions to the Fund, with interest, shall be paid in accordance with the provisions of sections 841 and 881."

SEC. 31. Section 841 of such Act is amended to read as follows:

"SEC. 841. (a) Whenever a participant becomes separated from the Service without becoming eligible for an annuity or a deferred annuity in accordance with the provisions of this Act, the total amount of contributions from his salary with interest thereon at 4 per centum per annum, compounded annually at the end of each fiscal year through June 30, 1958; semi-annually as of December 31,

1958; annually thereafter as of December 31, and proportionately for the period served during the year of separation including all contributions made during or for such period, except as provided in section 881, shall be returned to him.

"(b) In the event that the total contributions of a retired participant, other than voluntary contributions made in accordance with the provisions of section 881, with interest at 4 per centum per annum compounded annually as is provided in paragraph (a) of this section added thereto, exceed the total amount returned to such participant or to an annuitant claiming through him, in the form of annuities, accumulated at the same rate of interest up to the date the annuity payments cease under the terms of the annuity, the excess of the accumulated contributions over the accumulated annuity payments shall be paid in the following order of precedence, upon the establishment of a valid claim therefor, and such payment shall be a bar to recovery by any other person:

"(1) To the beneficiary or beneficiaries designated by the retired participant in writing to the Secretary;

"(2) If there be no such beneficiary, to the widow or widower of such participant;

"(3) If none of the above, to the child or children of such participant and descendants of deceased children by representation;

"(4) If none of the above, to the parents of such participant or the survivor of them;

"(5) If none of the above, to the duly appointed executor or administrator of the estate of such participant;

"(6) If none of the above, to other next of kin of such participant as may be determined by the Secretary in his judgment to be legally entitled thereto.

-23-

"(c) No payment shall be made pursuant to paragraph (b) (6) of this section until after the expiration of thirty days from the death of the retired participant or his surviving annuitant."

SEC. 32. Section 851 of such Act is amended to read as follows:

"SEC. 851. For the purposes of this title, the period of service of a participant shall be computed from the effective date of appointment as a Foreign Service officer, or, if appointed prior to July 1, 1924, as an officer or employee of the Diplomatic or Consular Service of the United States, or who becomes a participant under the provisions of this Act, as amended, but all periods of separation from the Service and so much of any leaves of absence without pay as may exceed six months in the aggregate in any calendar year shall be excluded, except leaves of absence while receiving benefits under the Federal Employees' Compensation Act of September 7, 1916, as amended, and leaves of absences granted participants while performing active and honorable military or naval service in the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States."

SEC. 33. (a) Paragraphs (a), (b), and (c) of section 852 of such Act are amended to read as follows:

"(a) A participant may, subject to the provisions of this section, include in his period of service -

"(1) service performed as a civilian officer or employee of the Government, including the municipal government of the District of Columbia, prior to becoming a participant; and

"(2) active and honorable military or naval service in the Army, Navy, Marine Corps, Air Force, or Coast Guard of the United States.

-24-

"(b) A person may obtain prior civilian service credit in accordance with the provisions of paragraph (a) (1) of this section by making a special contribution to the Fund equal to 5 per centum of his basic annual salary for each year of service for which credit is sought subsequent to July 1, 1924, and prior to the effective date of this Act, and at 6 1/2 per centum thereafter with interest compounded annually at 4 per centum per annum to the date of payment. Any such participant may, under such conditions as may be determined in each instance by the Secretary, pay such special contributions in ⁱⁿ installments.

"(c) (1) If an officer or employee under some other government retirement system, becomes a participant in the Foreign Service Retirement and Disability system by direct transfer, such officer or employee's total contributions and deposits, including interest accrued thereon, except voluntary contributions, shall be transferred to the Foreign Service Retirement and Disability Fund effective as of the date such officer or employee becomes a participant in the system. Each such officer or employee shall be deemed to consent to the transfer of such funds and such transfer shall be a complete discharge and acquittance of all claims and demands against the other government retirement fund on account of service rendered prior to becoming a participant in the Foreign Service Retirement and Disability system.

"(2) No officer or employee, whose contributions are transferred to the Foreign Service Retirement and Disability Fund in accordance with the provisions of paragraph (c) (1) of this section, shall be required to make contributions in addition to those transferred, for periods of service for which full contributions were made to the other government retirement fund, nor shall any refund be made to any such officer or employee on account of contributions made during any

-25-

period to the other government retirement fund, at a higher rate than that fixed by section 811 of this Act for contributions to the Foreign Service Retirement and Disability system.

"(3) No officer or employee, whose contributions are transferred to the Foreign Service Retirement and Disability Fund in accordance with the provisions of paragraph (c) (1) of this section, shall receive credit for periods of prior service for which a refund of contributions has been made, or for which no contributions were made to the other government retirement fund. A participant may, however, obtain credit for such prior service by making a special contribution to the Foreign Service Retirement and Disability Fund in accordance with the provisions of paragraph (b) of this section."

(b) Section 852 of such Act is further amended by adding at the end thereof new paragraphs (d) and (e) which shall read as follows:

"(d) No participant may obtain prior civilian service credit toward retirement under the Foreign Service Retirement and Disability system for any period of civilian service on the basis of which he is receiving or will in the future be entitled to receive any annuity under another retirement system covering civilian personnel of the Government.

"(e) A participant may obtain prior military or naval service credit in accordance with the provisions of paragraph (a) (2) of this section by applying for it to the Secretary prior to retirement or separation from the Service, but in the case of a participant who is eligible for and receives retired pay on account of military or naval service, the period of service upon which such retired pay is based shall not be included except that in the case of a participant who is eligible for and receives retired pay on account of a service-connected disability incurred in combat with an enemy of the United States or resulting

-26-

from an explosion of an instrument of war and incurred in line of duty during an enlistment or employment as provided in Veterans Regulation Numbered 1 (a), part I, paragraph I, or is awarded under title III of Public Law 810, 80th Congress, the period of such military or naval service shall be included. No contributions to the Fund shall be required in connection with military or naval service credited to a participant in accordance with the provisions of paragraph (a) (2) of this section."

SEC. 34. The heading "PART H - OFFICERS REINSTATED IN THE SERVICE" under title VIII of such Act is amended to read as follows: "PART H - ANNUITANTS RECALLED OR REINSTATED IN THE SERVICE OR REEMPLOYED IN THE GOVERNMENT".

SEC. 35. Section 871 of such Act is amended and a heading is added thereto as follows:

"RECALL

"SEC. 871. Any annuitant recalled to active duty in the Service in accordance with the provisions of paragraph (b) of section 520 or paragraph (b) of section 831 shall, while so serving, be entitled in lieu of his retirement allowance to the full pay of the class in which he is serving. During such service, he shall make contributions to the Fund in accordance with the provisions of section 811. The amount of his annuity when he reverts to the retired list shall be recomputed in accordance with the provisions of section 821."

SEC. 36. A new section 872 is hereby added to such Act as follows:

"REEMPLOYMENT

"SEC. 872. (a) Notwithstanding any other provision of law, any officer or employee of the Service, who has retired under this Act, as amended, and is receiving an annuity pursuant thereto, and who is reemployed in the Federal Government Service in any appointive position either on a part-time or full-time

basis, shall be entitled to receive the salary of the position in which he is serving plus so much of his annuity payable under this Act, as amended, which when combined with such salary does not exceed during any calendar year the highest basic salary such officer or employee was entitled to receive under sections 412 or 415 of the Act, as amended, on the date of his retirement from the Service. Any such reemployed officer or employee who receives salary during any calendar year in excess of the maximum amount which he may be entitled to receive under this subparagraph shall be entitled to such salary in lieu of benefits hereunder.

"(b) When any such retired officer or employee of the Service is reemployed, the employer shall notify the Department of State of such reemployment together with all pertinent information relating thereto and shall cause to be paid, by transfer or otherwise, to the Department of State funds necessary to cover gross salary, employer contributions, and gross lump sum leave payment relating to the employment of the reemployed officer or employee. The Department of State shall make to and on behalf of the reemployed officer or employee payments to which he is entitled under the provisions of paragraph (a) of this section, and shall make those withholdings and deductions authorized and required by law.

"(c) In the event of any overpayment under this section the Secretary of State is authorized to withhold the amount of such overpayment from the salary payable to such reemployed officer or employee or from his annuity."

SEC. 37. (a) Paragraph (a) of section 881 of such Act is amended to read as follows:

"SEC. 881. (a) Any participant may, at his option and under such regulations as may be prescribed by the President, deposit additional sums in multiples of 1 per centum of his basic salary, but not in excess of 10 per centum of such

-28-

salary, which amounts together with interest at 3 percentum per annum, compounded annually at the end of each fiscal year through June 30, 1958; semi-annually as of December 31, 1958; annually thereafter as of December 31, and proportionately for the period served during the year of his retirement including all contributions made during or for such period, shall, at the date of his retirement and at his election, be---

(b) Paragraph (c) of section 881 of such Act is amended by deleting the word "annually" and inserting in lieu thereof the phrase "as is provided in paragraph (a) of this section".

SEC. 38. (a) Section 1021 of such Act is amended by inserting the phrase "the Department including" immediately prior to the phrase "the Service" wherever it appears in this section.

(b) Section 1021 (a) is further amended by striking out the phrase "if recommended by the Director General" and inserting in lieu thereof the phrase "at the discretion of the Secretary".

SEC. 39. Section 11 of Public Law 885, 84th Congress (70 Stat. 890) is hereby amended by inserting after the phrase "Government-owned vehicles" the phrase "or taxicabs" and by inserting after the phrase "public transportation facilities" the phrase "other than taxicabs".

SEC. 40. Paragraph (4) of section 104(a) of the Internal Revenue Code of 1954 (26 U.S.C. 104(a)(4)) (relating to the exclusion from gross income of compensation for injuries and sickness) is hereby amended to read as follows:

"(4) amounts received as a pension, annuity, or similar allowance for personal injuries or sickness resulting from active service in the armed forces of any country or in the Coast and Geodetic Survey or the Public Health Service,

-29-

or as a disability annuity payable under the provisions of section 831 of the Foreign Service Act of 1946, as amended (22 U.S.C. 1081; 60 Stat. 1021)."

SEC. 41. Foreign Service staff officers and employees receiving basic compensation immediately prior to the effective date of this Act at one of the scheduled rates provided by section 415 of such Act, as amended, shall be transferred to the new classes established by section 415 of such Act, as amended, and shall receive basic compensation on and after the effective date of this Act, as follows:

Present class and step rate of section 415 of the Foreign Service Act of 1946, as amended (1958)			Corresponding new class and step rate of section 415 of the Foreign Service Act of 1946, as amended, by this Act.			Amount of Adjustments
Class	Step	Rate	Class	Step	Rate	
FSS-1	5	\$13,160	FSS-1	6	\$13,310	\$150
	4	12,830		5	12,980	150
	3	12,480		4	12,650	170
	2	12,120		3	12,320	200
	1	11,770		2	11,990	220
FSS-2	5	12,120	FSS-1	3	12,320	200
	4	11,770		2	11,990	220
	3	11,485	FSS-2	7	11,550	65
	2	11,205		6	11,275	70
	1	10,920		5	11,000	80
FSS-3	5	11,165	FSS-2	6	11,275	110
	4	10,885		5	11,000	115
	3	10,600		4	10,725	125
	2	10,320		3	10,450	130
	1	10,030		2	10,175	145
FSS-4	5	10,230	FSS-2	3	10,450	220
	4	9,945		2	10,175	230
	3	9,665	FSS-3	7	9,790	125
	2	9,380		6	9,515	135
	1	9,095		5	9,240	145
FSS-5	6	9,600	FSS-3	7	9,790	190
	5	9,315		6	9,515	200
	4	9,030		5	9,240	210
	3	8,815		4	8,965	150
	2	8,610		3	8,690	80
	1	8,295				

-30-

Class	Step	Rate	Class	Step	Rate	Amount of Adjustments
FSS-6	6	\$ 8,755	FSS-3	4	\$ 8,965	\$210
	5	8,540		3	8,690	150
	4	8,325	FSS-4	7	8,350	25
	3	8,120		6	8,125	5
	2	7,905		6	8,125	220
	1	7,690		5	7,900	210
FSS-7	6	8,050	FSS-4	6	8,125	75
	5	7,840		5	7,900	60
	4	7,630		4	7,675	45
	3	7,415		3	7,450	35
	2	7,200		2	7,225	25
	1	6,990		1	7,000	10
FSS-8	6	7,350	FSS-5	7	7,350	--
	5	7,140		6	7,150	10
	4	6,925		5	6,950	25
	3	6,710		4	6,750	40
	2	6,495		3	6,550	55
	1	6,285		2	6,350	65
FSS-9	6	6,650	FSS-5	4	6,750	100
	5	6,435	FSS-6	7	6,500	65
	4	6,220		6	6,300	80
	3	6,005		5	6,100	95
	2	5,795		4	5,900	105
	1	5,585		3	5,700	115
FSS-10	7	6,175	FSS-6	6	6,300	125
	6	5,970		5	6,100	130
	5	5,755		4	5,900	145
	4	5,540	FSS-7	7	5,550	10
	3	5,400		6	5,400	--
	2	5,260		6	5,400	140
	1	5,115		5	5,250	135
FSS-11	7	5,500	FSS-7	7	5,550	50
	6	5,355		6	5,400	45
	5	5,215		5	5,250	35
	4	5,070		4	5,100	30
	3	4,930		3	4,950	20
	2	4,790		2	4,800	10
	1	4,650		1	4,650	--
FSS-12	7	5,025	FSS-8	7	5,100	75
	6	4,890		6	4,950	60
	5	4,745		5	4,800	55
	4	4,605		4	4,650	45
	3	4,460		3	4,500	40
	2	4,320		2	4,350	30
	1	4,180		1	4,200	20

-31-

Class	Step	Rate	Class	Step	Rate	Amount of Adjustments
FSS-13	7	\$ 4,580	FSS-9	7	\$ 4,650	\$ 70
	6	4,440		6	4,500	60
	5	4,295		5	4,350	55
	4	4,155		4	4,200	45
	3	4,010		3	4,050	40
	2	3,870		2	3,900	30
	1	3,730		1	3,750	20
FSS-14	7	4,155	FSS-9	4	4,200	45
	6	4,010	FSS-10	7	4,100	90
	5	3,870		5	3,900	30
	4	3,730		4	3,800	70
	3	3,585		2	3,600	15
	2	3,445		1	3,500	55
	1	3,300		1	3,500	200
FSS-15	All step rates & below		FSS-10	1	3,500	5

SEC. 42. The annuity of each former participant under the Foreign Service Retirement and Disability system, who retired prior to July 28, 1956 and who at the time of his retirement had creditable service in excess of thirty years, shall be recomputed on the basis of actual years of creditable service not in excess of thirty-five years. Service which was not creditable under the Foreign Service Retirement and Disability system on the date a former participant retires, shall not be included as creditable service for the purpose of this recomputation. The annuities payable to such persons shall, when recomputed, be paid at the rates so determined, but no such recomputation or any other action taken pursuant to this section shall operate to reduce the rate of the annuity any such person is entitled to receive under the Foreign Service Retirement and Disability system.

SEC. 43. (a) The provisions of this Act shall become effective as of the first day of the first pay period which begins one month after the passage of this Act, except as provided in paragraphs (b), (c), and (d) of this section.

(b) The provisions of paragraphs (c) (1) and (c) (2) of section 803 of

-32-

the Foreign Service Act of 1946, as amended by section 24 (b) of this Act, shall become effective on the first day of the first month which begins one year after the effective date of this Act, except that any Foreign Service staff officer or employee, who at the time this Act becomes effective meets the requirements for participation in the Foreign Service Retirement and Disability system, may elect to become a participant in the system before the mandatory provisions become effective. Such Foreign Service staff officers and employees shall become participants effective on the first day of the second month following the date of their application for earlier participation.

(c) The amendment made by section 40 of this Act shall be effective with respect to taxable years ending after the date of enactment of this Act.

(d) The provisions of section 42 of this Act shall take effect on the first day of the first month which begins more than thirty days after the date of enactment of this Act.

SEC. 44. Notwithstanding the provisions of this Act, existing rules, regulations of or applicable to the Foreign Service of the United States shall remain in effect until revoked or rescinded or until modified or superseded by regulations made in accordance with the provisions of this Act, unless clearly inconsistent with the provisions of this Act.

SEC. 45. The following headings and sections in the Foreign Service Act of 1946, as amended, are hereby repealed:

- (1) Section 442 of such Act and the heading thereto.
- (2) Section 525 of such Act and the heading thereto.
- (3) Section 576 of such Act and the heading thereto.
- (4) Sections 651 and 652 of such Act and the headings thereto including Part F.